THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.21766 OF 2006

BETWEEN:

A.Komaraiah son of Late Mallaiah

…Petitioner

vs.

The Secretary, Social Welfare Department, Hyderabad and another

..Respondents

THE HONOURABLE SRI JUSTICE GODA RAGHURAM

WRIT PETTION NO.21766 OF 2006

ORAL ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader for Land Acquisition and with consent the writ petition is disposed of.

The writ petition is filed aggrieved by the failure of the State and the respondents herein in depositing the amount of the decretal debt in respect of the petitioner's land acquired, to the credit of E.P.No.95 of 2004 in O.P.No.73 of 1994 on the file of the I Additional Senior Civil Judge, Ranga Reddy. The petitioner's land was acquired by a draft notification dated.17-11-1992. Possession was taken earlier on 02-07-1987. An award was passed on 10-01-1994 awarding Rs.30,000/- per acre. Aggrieved, the petitioner sought a reference to the civil Court under Sec.18 of the Land Acquisition Act,1894(for short "the Act"). This was O.P.No.73 of 1994. The reference Court enhanced the market value to Rs.50,000/- per acre by the order dated.20-06-2003, in O.P.No.73 of 1994. Consequently a decree was passed in the following terms:--

1. That the reference is answered fixing the market value of the land acquired in the reference at Rs.50,000/- per acre.
2. It is further Ordered and decreed that 30% solatium and additional amount of compensation @ 12% P.A. is awarded from the date of draft notification i.e.,17-11-1992 till the date of award i.e.10-01-1994.
3. It is further ordered and decreed that interest is awarded at 9% p.a for one year from the date of taking possession i.e.02-07-1987 and therefore @ 15% p.a. till the amount is paid to the claimant or deposited in the Court.
4. That there is no order as to the costs.

The order and decree of the reference Court in O.P.No.73 of 1994 has become final, the State having preferred no appeal there against. The petitioner however preferred an appeal, A.S No. 3560 of 2003 claiming enhanced compensation. This appeal is stated to be pending.

Be that as it may. On the basis of the order of the reference Court dated.20-06-2003 in O.P.No.73 of 1994, which has become final in so far as the State is concerned and for realization of the compensation amount and other statutory benefits due there under, the petitioner filed E.P.No.95 of 2004. Since 2000 the Execution Petition is pending adjudication, the respondents having failed to deposit the amount. In the circumstances, the petitioner is before this Court alleging illegal and arbitrary conduct of the respondents in defying the decree of the civil Court in O.P.No.73 of 1994.

Pursuant to an interim order of this Court dated.01-11-2006 an amount of Rs.2,63,147/- was deposited to the credit of E.P No.95 of 2004 by the 3rd respondent on 03-11-2006 by way of cheque No.282062, dated.03-11-2006. The petitioner contends that an amount of Rs.4,43,093/- is the total amount payable pursuant to the order of the reference court in O.P.No.73 of 1994 and that in view of the deposit by the 3rd respondent of an amount of Rs.2,63,147/-, an amount of Rs.1,79,946/- is still due.

Responding to the above assertion on behalf of the petitioner, the 2nd respondent has filed an additional counter-affidavit along with a calculation sheet disclosing the manner in which a total liability of Rs.3,44,331/- has been arrived at. It is stated in the said additional counter-affidavit that while on 03-11-2006 an amount of Rs.2,63,147/- was deposited, on 13-11-2006, a further amount of Rs.81,184/- was deposited and thus the total deposit is

Rs.3,44,331/-. As is apparent from the calculation set out in the additional counter-affidavit filed by the 2nd respondent, 9% interest for the first year i.e., from the date of Notification (02-07-1987) up to 01-07-1988 is computed as Rs.7,245/-, calculated on the enhanced market value awarded by the reference Court but excluding the component of solatium and additional market value. Item No.7 in the 2nd respondent's calculation memo i.e., interest @ 15% from the 2nd year onwards till the date of payment i.e., 02-11-2006 is also similarly computed. Since the payment has now been made on two occasions, one on 03-11-2006 and other on 13-11-2006 an amount representing 15% interest payable from the 2nd year on wards will have to be computed in accordance with the several deposits made and the correct value arrived at.

Suffice it to record that in the computation of the respondents as reflected in the 2nd respondent's counter-affidavit, neither in the component of 9% interest for the first year nor the 15% interest from the 2nd year onwards till the date of payment, has the entire compensation payable (to the petitioner) which includes the value of the land as per the market value determined by the reference Court, the amount of solatium and the additional market value as statutorily specified have been taken into consideration. These three components constitute the compensation payable to the petitioner in view of the judgment of a Constitution Bench in **Sundar Vs. Union of India**[1]. *Prima facie* therefore the respondents are liable to pay a total amount of Rs.4,43,093/-. The specific amount of liability of the respondents will have computed calculating the interest component for the different periods duly considering the amounts deposited on 03-11-2006 and on 13-11-2006. From the amount so arrived at the income tax liability of the petitioner will have to be deducted. This exercise is more

appropriately done by the Court of I Additional Senior Civil Judge, Ranga Reddy in E.P.No.95 of 2004 in O.P.No.73 of 1994.

Since the *prima facie* liability of the respondents appears to be *prima facie* at Rs.4,43,093/- of which an amount of Rs.3,44,331/- has been deposited up to 13-11-2006, the 2nd respondent is directed to deposit the balance amount of Rs.Rs.98,762/- to the credit of E.P.No.95 of 2004 in O.P.No.73 of 1994 within a week from the date of receipt of a copy of this Order. The learned I Additional Senior Civil Judge, Ranga Reddy shall consider and dispose of E.P.No.95 of 2004 in O.P.No.73 of 1994 expeditiously and in any event within a period of thirty (30) days from the date of receipt of a copy of this Order duly computing the actual amount due and payable to the petitioner by the respondents in terms of the order of the reference Court dated.10-06-2003 in O.P.No.73 of 1994. A copy of this order shall be communicated to the learned I Additional Senior Civil Judge, Ranga Reddy.

With the aforesaid observation the writ petition is disposed of. In the circumstances there shall be no order as to costs.

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GODA RAGHURAM,J

22nd NOVEMBER 2006

***TSNR**

[1] AIR 2001 SC 3516